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5 **UNITED STATES DISTRICT COURT**
6 **DISTRICT OF NEVADA**

7 GERMANDI TYLER,

8 *Petitioner,*

9 vs.

10 STATE OF NEVADA,

11 *Respondent.*

3:11-cv-00003-RCJ-RAM

12 ORDER

13
14 This matter comes before the Court for initial review. Germandi Tyler, a Nevada state
15 inmate, has filed a notice of appeal seeking to appeal a decision of a state district court
16 denying his state post-conviction petition to this Court.

17 Petitioner's filing is subject to multiple defects.

18 First, petitioner did not pay the filing fee, and he did not file an application to proceed
19 *in forma pauperis.* Under 28 U.S.C. § 1914(a), the filing fee for "any civil action, suit or
20 proceeding . . . whether by original process, removal or otherwise," except for an application
21 for a writ of habeas corpus, is \$350.00. Petitioner did not file an application for a writ of
22 habeas corpus in this Court; he filed a notice of appeal. The filing fee in this matter therefore
23 is \$350.00. Moreover, the payment of the \$350.00 filing fee is subject to the requirements
24 of the Prisoner Litigation Reform Act in 28 U.S.C. § 1915, including the requirement that
25 petitioner pay the full \$350.00 fee in installments even if he currently is not able to pay the
26 entire fee.

27 Second, this Court does not have jurisdiction over an action brought against the State
28 of Nevada. The state sovereign immunity recognized by the Eleventh Amendment bars suit

1 against the State in federal court, regardless of the relief sought. . See, e.g., *Pennhurst State*
2 *School & Hospital v. Halderman*, 465 U.S. 89, 100-01, 104 S.Ct. 900, 908, 79 L.Ed.2d 67
3 (1984).

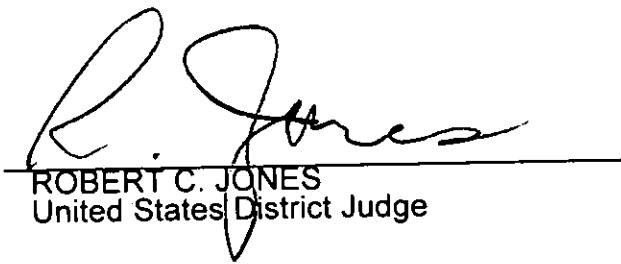
4 Third, this Court does not have appellate jurisdiction over a state district court.
5 See, e.g. *Rooker v. Fidelity Trust Co.*, 263 U.S. 413, 44 S.Ct. 149, 68 L.Ed. 362 (1923);
6 *Bianchi v. Rylaarsdam*, 334 F.3d 895, 898 (9th Cir. 2003). In filing a notice of appeal from
7 the order of the state district court, petitioner unquestionably is seeking to invoke appellate
8 jurisdiction by the federal district court over the state court. This Court does not have such
9 jurisdiction.

10 Given the multiple substantial defects presented, the action will be dismissed without
11 prejudice.

12 IT THEREFORE IS ORDERED that this action shall be DISMISSED without prejudice.

13 The Clerk of Court shall enter final judgment accordingly, dismissing this action without
14 prejudice.

15 DATED: January 4th, 2011.

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17 ROBERT C. JONES
18 United States District Judge
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